

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN WILLIAM CRISMORE**, on January 10, 2001  
at 3:00 P.M., in Room 317-C, Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. William Crismore, Chairman (R)  
Sen. Dale Mahlum, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mack Cole (R)  
Sen. Lorents Grosfield (R)  
Sen. Bea McCarthy (D)  
Sen. Ken Miller (R)  
Sen. Glenn Roush (D)  
Sen. Bill Tash (R)  
Sen. Mike Taylor (R)  
Sen. Ken Toole (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Nancy Bleck, Committee Secretary  
Mary Vandembosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB146; SB147; SB159, 1/5/2001  
Executive Action: None

#### **ORGANIZATIONAL COMMITTEE MATTERS**

**Mary Vandembosch**, our committee staffer of the **Legislative Environmental Policy Office**, advised the rules of procedures have been revised. These rules were first distributed to committee members at our organizational meeting on Friday, January 5, 2001. The first set was titled Rules of Procedure - 2001. The revised

rules, now distributed to all committee members, are titled Rules of Procedure - January 12, 2001, EXHIBIT (nas07a01). The general rules (Part I) and the public hearing on proposed legislation rules (Part II) have not been changed. The revisions to the rules are on the second page regarding amendments (Part III) and executive session (Part IV).

**Ms. Vandenbosch** explained amendments rules (Part III).

Amendments to be presented to the committee for consideration during executive session must be requested by a committee member. All amendments must be requested from the staff researcher by noon of the day prior to executive action on a bill. Amendments may be considered on shorter notice at the discretion of the Chair. If you have an amendment on short notice, please let **Ms. Vandenbosch** know. Committee members are the only legislators who can move amendments to a bill while the bill is in committee. Staff will draft amendments for the sponsor at the sponsor's request; however, only a committee member may make a motion to consider the amendment while the bill is in committee.

**Ms. Vandenbosch** explained executive session rules (Part IV).

Generally, executive session will not be held the same day as the public hearing on the bill. Although executive sessions are open to the public, no comments may be made by anyone but committee members. Members of the public may be asked questions by committee members at the discretion of the Chair. An important part of the revision is regarding absentee voting. **CHAIRMAN BILL CRISMORE**, requested this revision so amendments, bills and resolutions are all handled the same way. Absentee voting by committee members is permitted as follows: To be recorded, a signed statement indicating the committee member's vote must be submitted to the Chair prior to the executive decision on the bill or resolution. Absentee voting will be at the discretion of the Chair. At the Chair's discretion, a previously signed vote will not be used in the event that a bill or amendment has been subsequently and substantially amended. The vote on the entire bill may be left open for 24 hours or until the next committee meeting. Motions by committee members do not require a second.

**Questions from Committee Members and Responses:** None.

**Motion/Vote:** SEN. LORENTS GROSFIELD, SD 13, Big Timber, moved that RULES OF PROCEDURE - JANUARY 12, 2001 BE ADOPTED. Motion carried 11-0.

**CHAIRMAN CRISMORE** discussed room and seating arrangements briefly and reminded the guests planning to testify to complete the visitors' register and print their names legibly. Fairness and courteousness is expected of everyone including committee members

and the visiting public. If anyone feels our committee is not being fair, please come to **CHAIRMAN CRISMORE** and discuss this matter with him.

HEARING ON SB 146

Sponsor: **SEN. BOB KEENAN, SD 38, Bigfork**

Proponents: **Jan Sensibaugh, Department of Environmental Quality**  
**Jon Dilliard, Department of Environmental Quality**

Opponents: **Steve Wade, Montana Rural Water Systems**

Opening Statement by Sponsor:

**SEN. BOB KEENAN, SD 38, Bigfork**, presented **SB 146** and spoke in support of this bill. He explained this bill is at the request of **Jan Sensibaugh** and **Jon Dilliard** of the **Department of Environmental Quality** and would clarify requirements for water and wastewater operator certification.

Proponent's Testimony:

**Jan Sensibaugh, Department of Environmental Quality**, spoke in support of **SB 146** and offered written testimony, **EXHIBIT (nas07a02)**.

Opponent's Testimony:

**Steve Wade, Montana Rural Water Systems**, spoke in opposition to **SB 146**. **Mr. Wade** stated his organization has about 600 members throughout the state. He pointed out they were concerned about Section 2 in the bill, which repeals exemptions for smaller facilities with 15 or less hook-ups, since Title 75 reads the same but Title 37 makes no mention of this exemption. Also in reference to the definition section of this bill, pages 2 and 3, those definitions of water supply systems, water distribution systems, and water treatment plants are different than those that are in Title 75. This could result in some confusion, and he offered to work with the sponsor and the department to make sure the definitions and exemption carries over into Title 37.

Questions from Committee Members and Responses:

**VICE-CHAIR DALE MAHLUM** responded that Steve Wade had a legitimate concern regarding small communities and asked **SEN. KEENAN** if

there was a way to address this. **SEN. KEENAN** answered he had the same concern when he first looked at the proposed bill, being president of a homeowner's association, but said after discussing it, he would not be opposed in making the appropriate changes to Title 37 and 75. **VICE-CHAIR MAHLUM** worried whether **SEN. KEENAN** indeed was comfortable changing the bill with regards to his own community and **SEN. KEENAN** replied that he was. **CHAIRMAN CRISMORE** asked if the proponents had anything to add. **Ms. Sensibaugh** stated that she did not fully understand **Mr. Wade's** concern but was willing to make the changes so these exemptions were clear. **CHAIRMAN CRISMORE** offered to give it some more time to get the issue resolved.

**Closing by Sponsor:**

**SEN. KEENAN** closed on **SB 146** without remarks.

**HEARING ON SB 147:**

**Sponsor:** **SEN. BOB KEENAN, SD 38, Bigfork**

**Proponents:** **Jan Sensibaugh, Department of Environmental Quality**  
**Jon Dilliard, Department of Environmental Quality**

**Opponents:** **None.**

**Opening Statement by Sponsor:**

**SEN. BOB KEENAN, SD 38, Bigfork,** presented **SB 147** by the request of the **Department of Environmental Quality**. This bill generally revises the public water supplies, distribution, and treatment laws; clarifying the definitions of "person", "public sewage system", and "public water supply system"; prohibiting the continued construction or operation of public water supply systems or public sewage systems prior to department approval; limiting ownership of public water supply systems and public sewage systems to individuals, governmental entities, and certain types of business entities; requiring an owner of a public water supply system or a public sewage system to submit information to the department on ownership status.

**Proponents' Testimony:**

**Jan Sensibaugh, Department of Environmental Quality (DEQ),** spoke in support of **SB 147** and offered written testimony,  
**EXHIBIT (nas07a03) .**

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. MIKE TAYLOR** asked if there would be a cost associated with these unincorporated associations.

**Jan Sensibaugh, DEQ**, advised she does not believe there would be additional costs but would like to direct this question to **Jon Dilliard**, also of **DEQ**, with permission of the chair.

**Jon Dilliard, DEQ**, advised there would be a \$20 filing fee with the Secretary of State just for the association and not each individual homeowner.

**Closing by Sponsor:**

**SEN. KEENAN** closed on **SB 147** without remarks.

**HEARING ON SB 159**

**Sponsor:** **SEN. LORENTS GROSFIELD, SD 13, Big Timber**

**Proponents:** **Bud Clinch, Department of Natural Resources and Conservation**  
**Clive Rooney, Department of Natural Resources and Conservation**  
**Paul Sihler, Department of Fish, Wildlife and Parks**  
**Janet Ellis, Montana Audubon Society**

**Opponents:** **None.**

**Opening Statement by Sponsor:**

**SEN. LORENTS GROSFIELD, SD 13, Big Timber**, spoke in support of **SB 159** and advised this bill comes at the request of the **Department of Natural Resources and Conservation (DNRC)**.

**SEN. GROSFIELD** opened by saying this bill addresses state trust lands within Wildlife Management Areas (WMA) purchased by the Department of Fish, Wildlife and Parks (DFWP). State lands are required by the Constitution to provide income for the state school trust fund, and this is done by charging grazing fees, for example, stumpage for timber, oil and gas leases, and even charging for recreational use. A problem arises when the state

lands lie within WMA, and an income-providing activity might not be compatible with the land being used as an elk habitat. With this bill, the DFWP would actually buy something akin to a conservation easement to use for their purposes and thus reimburse the school trust fund. He stated that he talked with both the DNRC and the DFWP about adding amendments in order to protect the integrity of the WMA and offered **EXHIBIT (nas07a04)**, the amendments plan, adding this was not exactly what they had talked about then, and that it was offered mainly for illustration purposes. He allowed as to how more work needed to be done with the language of the amendment.

**Proponents' Testimony:**

**Bud Clinch, Director, Department of Natural Resources and Conservation**, spoke in support of **SB 159** and pointed to a map of Montana showing the checkerboard ownership of these lands to make it easier to understand the problem.

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**Mr. Clinch** talked about the long-standing practice of the DFWP putting together WMA by purchasing the fee title to existing private lands. Due to the scattered nature of the school trust lands, some of these private lands purchased included school trust land. He said there had seldom been a problem with this until more recently; most notably with two specific areas, the Sun River Game Range near Augusta, and the Blackfoot-Clearwater Game Range near Seeley Lake, for which there was a proposal to sell recreational cabin sites. Because of the conflict between the department's mandate to maximize revenue on these state lands, and the DFWP's mission to manage wildlife habitat, his department came up with this idea of selling easement rights to the DFWP on tracts with game ranges. He repeated **SEN.**

**GROSFIELD'S** concern over the language in the amendment and said this would be worked out so both agencies could work side by side, each fulfilling their mission. He admitted that the issue of a conservation easement sparked controversy among some Montanans. With regards to the Blackfoot-Clearwater Game Range, he stated they would have to sit down and negotiate with the DFWP about the potential of recreational and commercial development, ascertain how much money the school trust fund would lose if this easement were sold to the DFWP and the land not developed for revenue. With regards to the Sun River Game Range, however, the threat would not be recreational development but rather a potential gas and oil lease. He said this would not necessarily apply to every tract, and that they would have to take a close look in specifying the exact locations, and determine what the offset would be in terms of revenue, but he felt that this bill would enable both departments to do their job. He then referred to the stricken section about "environmental control purposes",

saying there was a statute on the books to that effect and it was unnecessary to have it in the amendment. He then referred to a section in the bill which deals with the sometime inadvertent encroachment of a private landowner onto state lands, as was the case in the Seeley Lake area where the corner of a house protruded onto state land. A sliver of the land then had to be sold to the adjacent landowner. He felt this bill would enable the department to deal with this kind of situation in a better way.

**Paul Sihler, Administrator of the Field Services Division, Department of Fish, Wildlife and Parks** rose in support of **SB 159** and offered written testimony, **EXHIBIT (nas07a05)**.

**Janet Ellis, Montana Audubon**, thought the bill clarified the authority the DNRC already has. She referred to a 442 acre area of school trust land near Kalispell, the Owen-Sowerwine Natural Area, saying this was one example where a long-term easement could be obtained in the future.

**Opponents' Testimony: None.**

**Questions from Committee Members and Responses: None.**

**Closing by Sponsor:**

**SEN. GROSFIELD** stated that he felt this was a good concept, enabling both agencies to work together and promised to work on the wording for the amendment before executive action was taken on **SB 159**.

**EXHIBIT (nas07a06)**, **(SB015902.amv) Amendments to SB 159** received January 12, 2001.

**OTHER BUSINESS:**

**CHAIRMAN CRISMORE** advised executive action will be taken this Friday on a couple of bills we have already heard.

**ADJOURNMENT**

**Adjournment: 3:48 P.M.**

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**SEN. WILLIAM CRISMORE, Chairman**

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**NANCY BLECK, Secretary**

**WC/NB**

**EXHIBIT** (nas07aad)